

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF REMEDIAL ACTION BY:)	AGREED ORDER
Coluccio Family LLC)	NO. DE 03TCPSR-5827
427 East 17 th Street, #258)	
Costa Mesa, CA 92627)	
TRAILER VILLAGE)	
LAUNDROMAT FACILITY)	

To: Coluccio Family LLC
427 East 17th Street, #258
Costa Mesa, CA 92627

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Coluccio Family LLC (CFLLC) under this Agreed Order (Order) is to provide for remedial investigation/feasibility study (RI/FS) and an interim actions at a facility where there has been a release or threatened release of a hazardous substance. This Order requires the CFLLC to evaluate the potential perchloroethylene (PCE) sources present and the risks posed to human health and the environment from contamination at the Trailer Village Site. Specifically, this Order requires the CFLLC to conduct a RI/FS, and to conduct an interim action to provide for continued groundwater compliance monitoring during and following an independent interim remedial action being conducted by the City of Centralia to remediate groundwater contamination at the Site. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order (Order) is issued pursuant to the authority of the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with the Order. The CFLLC agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the CFLLC's responsibility under this Order. The CFLLC shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms used in this Order.

1. Site: The Site, referred to as the Trailer Village Site, is generally located at 1313 Harrison Avenue, Centralia, Washington 98531, in Lewis County. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the Site is shown in Exhibit A to this Order, which includes a detailed Site diagram. The Site constitutes a Facility under RCW 70.105D.020(4).

2. Parties: Refers to the State of Washington, Department of Ecology (Ecology) and the Coluccio Family LLC (CFLLC).

3. PLP: Refers to the Coluccio Family LLC (CFLLC).

4. Agreed Order or Order: Refers to this Agreed Order and each of the exhibits to the Order. All exhibits are integral and enforceable parts of this Order, and the terms “Agreed Order” or “Order” shall include all exhibits to the Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by the CFLLC:

1. The Trailer Village Park property, located at 1313 Harrison Avenue, Centralia, Washington, is the PCE source area for both soil contamination and groundwater contamination at the Site. The Trailer Village Park property location map, general Site vicinity map and extent of the Site are shown on figures 1, 2 and 3, respectively, in Exhibit A, attached. The Trailer Village Park property contains a 98-unit mobile home and recreational park. The legal description of the property is included in Exhibit A. The property is bounded by Harrison Avenue on the East, Russell Road on the North, Kayu Lane on the West, and a local street on the South (Figure 4, Exhibit A). Land usage in the Site vicinity is all residential.

2. Currently, the Trailer Village Park property is owned by the CFLLC. Mr. Robert Coluccio previously owned the property from 1967 to 1982, and the Coluccio Family Limited Partnership owned the property from 1982 to 1986. The CFLLC then repurchased the property from Mr. George Albert and Mr. Herman Rubin, after the discovery of contamination in June 1991.

3. Historical records and interviews with people living at the Trailer Village Park revealed that a self-service laundry facility known as the Trailer Village Laundromat Facility, which also included two dry cleaning machines, was located and operated on the property from 1960 to 1978. The dry cleaning solvent PCE was used in the dry cleaning machines during the operation. The dry cleaning solvent PCE was supplied by a chemical company from Portland, Oregon, and was stored in an above ground storage tank located behind the laundromat facility.

4. Improper PCE waste handling practices, such as the discharge of PCE contaminated waste into the septic system and drain fields, and potential spills occurred in the vicinity of the above ground storage tank and are the sources of PCE contamination in both soils and groundwater at the Site.

5. Sampling of on-property drinking water wells by the Washington State Department of Health (DOH) in June 1991 revealed that on-property wells were contaminated with PCE exceeding the Federal Drinking Water Standard (FDWS) of 5 micrograms per liter (ug/l). This warranted the sampling of additional private drinking water wells on and around the Trailer Village Park property. DOH and the Lewis County Department of Health sampled twenty-six (26) additional private drinking water wells in September and October of 1991 and samples were analyzed for volatile organic compounds (VOCs). The range of PCE concentration detected during the above sampling was from 2.8 ug/l to 87.2 ug/l. One of the on-property wells showed the highest PCE concentration of 87.2 ug/l. Out of a total of 26 wells sampled, PCE concentration in 10 wells exceeded the FDWS of 5 ug/l for PCE (Exhibit-B).

6. The June 1991 groundwater sampling results also showed PCE concentration of 3.2 ug/l in one of the City of Centralia's Public Water Supply Wells - the Eshom Well, which is located in the down gradient direction approximately 2,600 feet northwest of the Trailer Village Park. The Eshom Well had to be shut-down in 1991 because of PCE contamination.

7. In November 1991, Century West Engineering was hired by Mr. Herman Rubin and Mr. George Albert to conduct a Preliminary Site Assessment (PSA) to gather background information regarding the Site history and the potential source of PCE contamination to the soil and groundwater. The primary finding of this PSA was that a self-serving laundry facility known as the Trailer Village Laundromat Facility which also contained two dry cleaning machines was in operation from 1960 to 1979. The dry cleaning operation used PCE in its operations, and stored PCE in an above ground storage tank (AGST) behind the laundromat building. The report indicated that past storage and handling practices of the "PERC" (also known as PCE) dry cleaning fluid at the subject facility may have resulted in release of the material into the ground near the laundromat. This report also recommended that additional soil sampling occur near the former laundromat, septic tanks connected to the laundromat, and PCE storage tank (Exhibit-D).

8. The Trailer Village Park was hooked up to the City of Centralia Water Supply and Sewer System in 1994, since DOH groundwater sampling results showed that two on-property water supply wells were contaminated with PCE. In addition, Ecology provided a Safe Drinking Water Grant of \$40,140 to the City of Centralia in October of 1992 to hook-up ten (10) houses on Kayu Lane to the City water supply, since PCE concentrations exceeded the FDWS in these wells (Ecology Agreement number G9300127). However, houses located in other areas which exceeded the FDWS were not hooked up to the City water supply at that time.

9. During March and April of 1995, a total of ten (10) on-property septic tanks were cleaned and either removed or closed in-place by the Roto-Rooter Company, hired by Mr. Bob Coluccio. Sludge and water were removed prior to their closure (Exhibit-C).

10. In November of 1991, Century West Engineering was hired by Mr. Herman Rubin and Mr. George Albert to conduct the Phase II Environmental Site Assessment (ESA) at the Site. During the ESA investigation, a total of four test pits, three near the septic tanks and one near the PCE AGST, were excavated to a depth of 5 to 6 feet deep and four soil samples (one from each test pit) were collected for VOCs analysis. In addition, one sludge and multiple water samples were collected from an inactive septic tank and an active septic tank, respectively, for VOC analysis. The soil sample collected from the test pit at the AGST showed PCE

concentration of 6 ug/kg. PCE was detected in the septic tank sludge sample at 930 ug/kg, and in the septic tank water at 1.9 ug/l. Toluene was also detected at 160 ug/l in a sludge sample from the active septic tank. The ESA also recommended additional deep soil and groundwater investigations near the laundromat, septic tanks, and AGST to define the nature and extent of contamination (Exhibit-E).

11. In February of 1992, Ecology ranked the Trailer Village Site according to the Washington Ranking Method for prioritizing sites. The Site was initially ranked as a priority 4 on a scale of 1 to 5 (1 being the worst contaminated site and 5 being the least contaminated site). The Site was subsequently reevaluated and currently is ranked as a priority 2.

12. In June 1995, Kennedy/Jenks Consultants, hired by Mr. Bob Coluccio, conducted an additional source investigation in the vicinity of the laundromat on the Trailer Village Park property. During this investigation a total of five test pits (two test pits near the AGST, two test pits near septic systems, and one in the leach field) were excavated to a depth of 7 feet, and a total of ten soil samples were collected from these test pits for VOC analysis. Two shallow soil samples (at 3 foot depth) collected from two test pits excavated near the AGST showed PCE concentrations of 80 ug/kg and 60 ug/kg. PCE was not detected in any other soil samples (Exhibit-F).

13. In October 1995, Mr. Bob Coluccio had Kennedy/Jenks Consultants to conduct a preliminary groundwater investigation to assess the impact of PCE on the groundwater beneath the Site. As a part of this investigation, Kennedy/Jenks Consultants installed three shallow groundwater monitoring wells - one near the potential PCE source area (MW-1, near AGST), one down gradient (MW-2), and the other one at northern property line (MW-3). Four rounds of groundwater monitoring were conducted between October 1995 and August 1996 by Kennedy/Jenks Consultants to determine the PCE concentrations and its seasonal trend (Exhibit-G).

14. PCE was detected in each sample collected from monitoring well MW-1, located near the potential PCE source area (AGST area). The PCE concentration range detected in MW-1 was 14 ug/l to 99 ug/l. PCE was also detected in a down gradient well (MW-2) during the first (October 1995, 18 ug/l) and last rounds (August 1996, 9 ug/l) of sampling events (Exhibit-G, Table 3). The shallow groundwater beneath the Site is a part of an unconfined aquifer (water

table) known as the Fords Prairie Aquifer, which reportedly extends from about 25 feet below grade to the top of a silty/clayey aquitard at about 60 to 70 feet below grade. Groundwater investigations revealed that the groundwater is approximately 26 feet below ground level at the Site and flows in a west and northwesterly direction with a horizontal gradient of about 0.0013 foot per foot. Estimates of hydraulic permeability at the Site ranged from 5.7×10^{-3} centimeter per second (cm/s) to 3.6×10^{-2} cm/s.

15. The City of Centralia applied to Ecology's Remedial Action Grant Program in September of 1996 for addressing the contamination of its wells. To date, Ecology has provided a total of \$4,309,731 in Remedial Action Grant money to the City of Centralia for conducting a number of activities to investigate groundwater contamination and implement groundwater remediation at off-property portions of the Trailer Village Site (Grant Agreement No. G99001322). The City of Centralia is thus performing, in effect, an independent interim action so that the City's wells can be put back into use. In particular, the City has investigated the extent of off-property groundwater contamination through the sampling of fifty-three (53) private drinking water wells (Exhibit-H). Also the City has implemented a pump and treat technology to remediate groundwater contamination. As part of its grant agreement with Ecology, the City has prepared a number of reports at the Trailer Village Site. The following provides a brief summary of activities the City conducted under each project task:

- **Preliminary Engineering**

The City reviewed the prospective locations for the extraction wells and treatment facility for meeting the interim remedial action objectives, and conducted hydrologic analysis and particle path modeling of alternative locations to assess the projected efficiency in capturing the contaminant plume. The City also evaluated alternative technologies for treating the extracted contaminated groundwater, identified private wells (houses) that would need a new potable water connection through a groundwater sampling network, and permitting processes for planned facilities.

- **Environmental Impact Statement (EIS)**

The City prepared an EIS in January of 2000 that addressed the proposed aquifer cleanup including the new extraction wells, treatment facility, Galvin Road transmission piping

and the local water distribution network. The EIS was open for public review, comment and approval process as prescribed by the State Environmental Policy Act.

- **Project Design**

The City finished designing and constructing two extraction wells (to contain and remediate the contaminated portion of the aquifer) in May 2001, the Galvin Road main waterline (to transport the treated water from the treatment facility to the distribution reservoir) in December 2001, and a water treatment facility (to treat the extracted contaminated groundwater) in June 2003. In addition, during June 2004 through April 2005, the City has designed and completed the construction of a new water distribution network to supply city water to individual houses within the contaminated area. As a part of this the City has hooked-up a total of seventy-six (76) houses to the City water supply system.

- **Property Acquisition**

In September 2001, the City purchased a land parcel from the Port of Centralia, and sited the two extraction wells and water treatment facility on a single parcel within the Port of Centralia's Industrial Park.

- **Extraction Well Drilling**

In May 2001, the City finished drilling, testing and reporting on two high-capacity wells to extract the contaminant groundwater from the aquifer. Two 16-inch wells were drilled to a depth of 40 feet and completed in 2000 and 2001 as per the requirements of Chapter 173-160 WAC, Minimum Standards for Construction and Maintenance of Wells.

- **Water Service Construction**

During June 2004 through April 2005 the City has designed and constructed a new water distribution system within the contaminated area to hook up houses affected by the groundwater contamination (PCE). A total of seventy-six (76) houses have been connected to the City water supply system.

- **Treatment Facility Construction**

The City previously constructed water pumping and treatment facilities to treat the contaminated groundwater, completed in June 2003. The extracted contaminated groundwater will be treated with an air stripper. In order to maximize the extraction of the aquifer contaminant and produce beneficial use of potable water, Eshom Well will also be operated in conjunction with the new two extraction wells. The three wells will transmit their flows through new water transmission mains to a centralized water treatment facility (Exhibit-I).

- **Installation of Distribution Water Main, Water Meters and Private Well Abandonment**

During June 2004 through April 2005 the City has designed and constructed a new water distribution main piping (including water meters) to transfer the residents' water service from contaminated private wells to city water. A total of seventy-six water meters were installed and the same number of houses have been hooked-up to the City water supply. However, none of the private wells were abandoned, since owners would like to keep their wells for non-consumptive use namely irrigation purposes only (watering their lawns). Piping connections from these private wells to the houses were disconnected. The City has completed all the water distribution system network construction during the summer of 2005 (Exhibit-J).

16. Ecology sampled a total of forty-two (42) private drinking water wells within the contaminated area in August 2002, December 2002 and February 2003, to determine current PCE concentrations. PCE concentrations ranged from 0.18 ug/l to 10.5 ug/l. PCE concentrations in six private wells exceeded the Federal Drinking Water Standard of 5 ug/l. Ecology supplied bottled water for four of these families from January 2003 to March 2005. Two families have declined receiving bottled water (Exhibit-K).

17. In September 2005 ENTRIX, Inc. was hired by Mr. Bob Coluccio to conduct additional phase II site investigations on the property and to address the data gaps identified by Ecology (Exhibit-L). As a part of this investigation, three deep groundwater monitoring wells (90-feet, to the top of the upper most aquitard) were installed (MW-4 through MW-6), ten shallow soil borings were drilled (SB 1 through SB 10) and a total of thirty (30) soil samples were collected

for VOC analysis. Only trace levels of PCE were detected at boring SB-1-14 (0.07 mg/kg), SB-2-8 (0.05 mg/kg), SB-5-12 (0.03 mg/kg), SB-10-16 (0.07 mg/kg) and MW-5-32 (0.2 mg/kg). None of the other daughter products of PCE were detected in any of the soil samples. The above low levels of PCE concentrations indicate that there is no ongoing PCE source present on the property (Exhibit-O).

18. ENTRIX, Inc. is also conducting the groundwater monitoring of six on-property wells (three shallow and three deep) on a quarterly basis. Three rounds of quarterly monitoring have been completed with two more rounds remaining. Only PCE was detected in some of the wells and results ranged from 1.1 ug/l to 50 ug/l. Detection of PCE concentration of 50 ug/l in monitoring well MW-1 during the November 2005 sampling event seems to be an anomaly. The subsequent round (February 2006) of sampling (which was coordinated with concurrent sampling of off-property private wells by the City of Centralia) showed a PCE concentration of 7.7 ug/l. However, the results of the remaining two rounds of sampling should be considered to evaluate the overall trend of PCE at this well (Exhibit P).

19. The City of Centralia is also conducting quarterly groundwater monitoring of twenty-five (25) off-property private wells as a part of long term groundwater compliance monitoring. Three rounds of quarterly monitoring have been completed with two more rounds remaining. Only PCE was detected in twenty wells with PCE concentrations ranging from 0.6 ug/l to 23 ug/l (Exhibit Q).

20. Ecology has reviewed and approved a work plan submitted by ENTRIX, Inc. for the preparation of a remedial investigation/feasibility study (RI/FS) report. Since all the field work has already been completed with the exception of two remaining rounds of groundwater sampling, the CFLLC shall use the data and information from previous investigations and cleanup efforts for developing a RI/FS report. The outlines of scope of work for developing a RI/FS report is attached as Exhibit-R.

VI. ECOLOGY DETERMINATIONS

1. The CFLLC is an "owner or operator" as defined in RCW 70.105D.020(12), of a "facility," as defined in RCW 70.105D.020(4).

2. Based upon all factors known to Ecology, a “release” or “threatened release” of a “hazardous substance” as defined in RCW 70.105D.020(20) and RCW 70.105D.020(7), respectively, has occurred at the Site.

3. Based upon credible evidence, Ecology issued a potentially liable person status letter to the CFLLC dated April 29, 2002, pursuant to RCW 70.105D.040, RCW 70.105D.020(16) and WAC 173-340-500. After providing for notice and opportunity to comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that the CFLLC is a potentially liable person (PLP) under RCW 70.105D.040 and notified the CFLLC of this determination by letter dated August 22, 2003.

4. Pursuant to RCW 70.105D.030(1) and RCW 70.105D.050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

5. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study or design of a cleanup action. The threat to the safety and reliability of public and private water supplies caused by the migration of contaminated groundwater at the Site warrants an interim action consistent with WAC 173-340-430.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the CFLLC take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

1. Remedial Investigation/Feasibility Study (RI/FS)

Results of stage II site characterization conducted by ENTRIX, Inc., in September 2005, indicates that there is no ongoing PCE source on the property. The data collected from the above investigation and other previous investigations are sufficient to define the full nature and extent of soils and groundwater contamination. However, the extent of off-property groundwater contamination has been defined by the City of Centralia as an interim action. The CFLLC shall develop a RI/FS report using the available information from its investigations and those of the City of Centralia in accordance with WAC 173-340-350, and the following requirements:

A. Scope of Work:

(1) Work Plan: The CFLLC has submitted a draft work plan on April 11, 2006 for developing a RI/FS report. The work plan was reviewed and approved by Ecology. The CFLLC shall perform the work described in the work plan. The outlines of scope of work for developing a RI/FS work plan are attached as Exhibit-R.

(2) Schedule: Since all the field work has already been completed, no additional site investigations are needed at this time with the exception of the final two rounds of groundwater sampling as described in the already approved work plan. Data and information from the stage II site investigations and previous investigations shall be used to develop a RI/FS report. A draft RI/FS report shall be submitted to Ecology for review and comment within 90 calendar days of completion of fieldwork (after two more rounds of remaining quarterly groundwater monitoring including the City of Centralia monitoring) and receipt of final analytical results. Ecology shall endeavor to provide written comments within 45 calendar days of receipt of the draft report. The CFLLC shall incorporate Ecology's comments into the draft report and submit a final RI/FS report to Ecology, within 30 calendar days of receipt of Ecology's comments, for Ecology's approval. Upon Ecology's approval, the report shall constitute the final RI/FS Report.

Schedule:

Draft RI/FS Report90 calendar days after the completion of fieldwork and
receipt of final laboratory analytical results

Final RI/FS Report30 calendar days after the receipt of Ecology's comments
on the draft RI/FS report

(3) Extension of Schedule: The above schedule is based on the assumption that the weather will cooperate during the investigation. However, if good cause exists for an extension, a timely request for an extension may be granted pursuant to Section VIII.K. Should an additional phase of RI be necessary to characterize the distribution of contaminants in soil and/or groundwater on or off-property (based on new information), a supplemental work plan will be submitted to Ecology for review and approval consistent with section VIII L of this Order.

2. Interim Action: Groundwater Compliance Monitoring

The interim action compliance monitoring shall be performed according to the following items a through e:

- a. Monitoring dates shall be February 2007, August 2007 and February 2008.
- b. The monitoring wells to be sampled are the 6 monitoring wells at the site and 12 of the 25 monitoring wells off-site which were monitored previously by the City of Centralia.
- c. The parameters to be tested are the same parameters as were tested by the City of Centralia and CFLLC on the on-site and off-site monitoring wells.
- d. The monitoring results from the on-site and off-site monitoring wells will be reported to Ecology after each sampling event.
- e. The CFLLC will coordinate with the City of Centralia to provide for the continued groundwater compliance monitoring in accordance with the schedule as shown in a of this section.

After finalizing the RI/FS report, Ecology will develop the Final Cleanup Plan (CAP) in accordance with all the applicable sections of the MTCA. The final CAP will be attached to an agreed order drafted by Ecology. The final CAP will be an integral and enforceable part of the final agreed order.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notices

This Order has been the subject of public notice and comment pursuant to WAC 173-340-600.

B. Remedial Action Costs

The CFLLC shall pay to Ecology the amount of \$24,075 to reimburse Ecology for staff time costs incurred from July 01, 2002 to May 31, 2006. Such payment shall be made to Ecology within ninety (90) days of the effective date of this Order. In addition, the CFLLC shall pay to Ecology costs incurred by Ecology subsequent to June 01, 2006, that are or were incurred pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW both prior to and subsequent to the issuance of this Order. The CFLLC shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges pursuant to WAC 173-340-550(4).

C. Implementation of Remedial Action

Except where necessary to abate an emergency situation, the CFLLC shall not perform any remedial actions at the Site outside those remedial actions required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Mr. Mohsen Kourenhdar
Department of Ecology
Toxics Cleanup Program
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775
Telephone: (360) 407-6256

The project coordinator for the CFLLC is:

Mr. Matthew Loxterman
ENTRIX, Inc.
148 N Rogers Street, NW
Olympia, WA 98502

Telephone: (360) 352-3225, Extension 205

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. The Ecology project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the CFLLC, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinator(s).

Ecology and the CFLLC may change their respective project coordinator, but must provide ten (10) calendar days advance written notification of the change to the other party.

E. Performance

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or equivalent as approved by Ecology, with experience and expertise in hazardous waste site investigation and cleanup. The CFLLC shall notify Ecology as to the identity of such engineer(s), or hydrogeologist(s), or others, and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

Any construction work performed pursuant to the Order shall be under the supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as provided in RCW 18.43.130.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that the CFLLC either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*; inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the CFLLC's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the CFLLC. The CFLLC shall make reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the CFLLC where

remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the CFLLC unless an emergency prevents such notice. All persons who access the Site pursuant to this paragraph shall comply with any applicable health and safety plan, if any. Ecology employees and their representative shall not be required to sign any release or waiver as a condition of site property access.

G. Sampling, Data Reporting, and Availability

With respect to the implementation of this Order, CFLLC shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology and shall submit these results in accordance with Section VII of this Order.

All sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with WAC 173-340-840(5) and Ecology Toxics Cleanup Program Policy 840; Data Submittal Requirements. Ground water sampling data shall be submitted to Ecology according to the requirements of Exhibit N and WAC 173-340-840(5). These submittals shall be provided to Ecology in accordance with Section VII L of this Order.

If requested by Ecology, the CFLLC shall allow split or duplicate samples to be taken by Ecology and/or its authorized representative of any samples collected by the CFLLC pursuant to implementation of this Order. The CFLLC shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, to be taken by the CFLLC or its authorized representative provided it does not interfere with Ecology's sampling. Without limitation on Ecology's rights under this section, Ecology shall notify the CFLLC prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A public participation plan is required for this Site. Ecology shall review any existing public participation plan to determine its continued appropriateness and whether it requires

amendment, or if no plan exists, Ecology shall develop a public participation plan alone or in conjunction with the CFLLC.

Ecology shall maintain the responsibility for public participation at the Site. However, the CFLLC shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, Remedial Investigation/Feasibility Study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings;

2. Notify Ecology's project coordinator prior to any of the following: the issuance of all press releases; distribution of fact sheets; performance of other outreach activities; and meetings with the interested public and local governments. Likewise, Ecology shall notify the CFLLC prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the CFLLC that do not receive prior Ecology approval, the CFLLC shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology;

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions, or as a presenter;

4. When requested by Ecology, arrange and/or continue an information repository to be located at Ecology's Southwest Regional Office at 300 Desmond Drive, Lacey, WA 98503. At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly placed in this repository.

I. Retention of Records

During the pendency of this Order and for ten (10) years from the date of completion of work performed pursuant to this Order, the CFLLC shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order

and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the CFLLC shall make all records available to Ecology and allow access for review within a reasonable time.

J. Dispute Resolution

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, the Parties shall utilize the dispute resolution procedure set forth below.

- (a) Upon receipt of the Ecology project coordinator's decision, the CFLLC has fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision.
- (b) The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.
- (c) The CFLLC may then request Ecology management review of the decision. This request shall be submitted in writing to the Southwest Region Toxics Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's decision.
- (d) The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within sixty (60) days of the CFLLC 's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least 30 days prior to expiration of the deadline for

which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed. The request shall specify:

- (a) The deadline that is sought to be extended;
- (b) The length of the extension sought;
- (c) The reason(s) for the extension; and
- (d) Any related deadline or schedule that would be affected if the extension were

granted.

2. The burden shall be on the CFLLC to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause includes, but is not limited to:

- (a) Circumstances beyond the reasonable control and despite the due diligence of the CFLLC including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the CFLLC; or
- (b) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- (c) Endangerment as described in Section VIII.M of this Order.

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the CFLLC.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give CFLLC written notification in a timely fashion of any extensions granted pursuant to the Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L, when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety

(90) days only as a result of:

- (a) Delays in the issuance of a necessary permit which was applied for in a timely manner; or
- (b) Other circumstances deemed exceptional or extraordinary by Ecology; or
- (c) Endangerment as described in Section VIII.M.

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.N of this Order, substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the CFLLC. The CFLLC shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to the Order represents a substantial change, Ecology shall provide additional public notice and opportunity to comment pursuant to WAC 173-340-600(11)(d). If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.J of this Order.

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the CFLLC to cease such activities for such period of time as it deems necessary to abate the danger. The CFLLC shall immediately comply with such direction.

If, for any reason, the CFLLC determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, the CFLLC may cease such activities. The CFLLC shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction the CFLLC shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the CFLLC's cessation of activities, it may direct the CFLLC to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the CFLLC's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights/No Settlement

This Agreed Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against the CFLLC to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the CFLLC regarding remedial actions required by this Order, provided the CFLLC complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

O. Transference of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the CFLLC without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the CFLLC's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the CFLLC shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the CFLLC shall notify Ecology of said transfer.

Upon transfer of any interest, the CFLLC shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by the CFLLC pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090.

2. Pursuant to RCW 70.105D.090(1), the substantive requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for remedial action under this Order and that are known to be applicable at the time this Order becomes effective, have been included in Exhibit D, and are binding and enforceable requirements of the Order.

The CFLLC has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the CFLLC determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of this determination. Ecology shall determine whether Ecology or the CFLLC shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the CFLLC shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the CFLLC and on how the CFLLC must meet those requirements. Ecology shall inform the CFLLC in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The CFLLC shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW

70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the state to administer any federal law, the exemption shall not apply and the CFLLC shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Indemnification

The CFLLC agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of the CFLLC, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the CFLLC shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Order.

IX. SATISFACTION OF THIS ORDER

The provisions of this Order shall be deemed satisfied upon the CFLLC's receipt of written notification from Ecology that the CFLLC has completed the remedial activity required by this Order, as amended by any modifications, and that the CFLLC has complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

1. The Attorney General may bring an action to enforce this Order in a state or federal court.
2. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
3. In the event the CFLLC refuses, without sufficient cause, to comply with any term of this Order, the CFLLC will be liable for:

- (a) Up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
 - (b) Civil penalties of up to \$25,000 per day for each day it refuses to comply.
4. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: _____

COLUCCIO FAMILY LLC

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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